

Tribune records hearing

Documents re Kevin Salmon

What Tribune is seeking

“Specifically, I ask you please grant me a copy of the internal affairs file relating to Kevin Salmon and a recording or transcript of all of Mr. Salmon’s interviews concerning the events of November 2, 2012.” — Nate Carlisle’s appeal to City Manager Wayne Pyle

What WVC cited?

Ms. Martha Stonebrook cited U.C.A. 63G-2-302(2)(d) and 63G-2-305(10)(a) and (b) in denying both sets of documents.

302(2) The following records are private if properly classified by a governmental entity

- a. records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection [63G-2-301\(2\)\(b\)](#) or [63G-2-301\(3\)\(o\)](#) or private under Subsection [\(1\)\(b\)](#)

305(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

- a. reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
- b. reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

Precedent favors release

Deseret News Publishing Co. v. Salt Lake County, Utah Supreme Court 2008

SLCo. did not give DNews a report on sexual harassment in clerk's office, citing 302(2)(d) and 305(10). Appeals ensued, ending in the Utah Supreme Court ruling.

The Court ruled for DNews, saying the trial court erred, owed no deference to county's classification, that a de novo review should have been undertaken despite the pre-classification.

Court also said report did not qualify as "protected" because there was no ongoing investigation.

... That release of report was not a "clearly unwarranted invasion of personal privacy."

... That public interest was best served by release of report because it discusses the performance of public officials in discharge of their duties.

More precedent

Jeffrey B. Lawrence v. Utah Department of Public Safety, 3rd District Court, 2013

Judge L.A. Dever overturned a decision of the Utah State Records Committee and ordered UHP to provide an internal affairs file to a citizen complainant. UHP/DPS had denied the request citing 302(2)(a) and (d).

Judge Dever, citing the aforementioned DNews case, wrote of 302(2)(a): “Investigative records addressing alleged violations of the public trust fall outside of this Section because they are not the same kind, class, character or nature as the specifically enumerated categories of sensitive personal information identified as ‘performance evaluations and personal status information such as race, religion, or disabilities.’”

Judge Dever added: “DPS has failed to show that release of the investigative records would result in an unwarranted invasion of privacy that would render them “private” records under Utah Code Ann. § 63G-2-302(2)(d).”

Judge Dever’s ruling was not appealed.

Other agencies do this

In recent years, The Tribune has obtained copies of the following investigations undertaken by cities, counties or Utah state agencies into their own employee(s):

- University of Utah: swim coach and sperm bank*^
- Roy: Police chief*^
- Ogden: Report on shootout*^

*No disciplinary action taken

^Report concerned former employee

Equity and transparency

Seven officers in neighborhood narcotics unit were disciplined and one was terminated.

We know the transgressions the city accused them of, but we don't know what the city found regarding Mr. Salmon.

Mr. Salmon was on paid leave for about 23 months while WVC waited and investigated.

What did that investigation find and what did Mr. Salmon say?

More re transparency

Mr. Salmon is still employed as a police officer.

WVC's own transparency statement says: "West Valley City has a long and rich history of being more open than state GRAMA laws require, and this tradition will continue."